

Contains: Dehydrated Parsley, Swiss Chard, Dulse, Irish Moss, Spinach, Psyllium, Di-calcium, Phosphate and Iron Phosphate."

**NATURE OF CHARGE:** Misbranding, Section 502 (f) (1), the labeling of the articles failed to bear adequate directions for use in causing reduction of body weight, which was the condition for which the articles were offered in the advertising disseminated and sponsored by and on behalf of the manufacturer.

**DISPOSITION:** On March 16, 1946, the libel action was transferred to the Northern District of California. On July 7, 1947, upon a motion of the claimant, the Alberty Food Products Co., the United States District Court for the Northern District of California entered an order directing the removal of the action to the Southern District of California, the home district of the claimant. Thereafter, upon the basis of a stipulation between the parties, an order was entered vacating the July 7 order of removal. Further proceedings in the case were subsequently postponed pending the disposition of certain other cases under the Federal Food, Drug, and Cosmetic Act against certain products of the claimant.

On October 5, 1951, upon stipulation by the parties that the case presented no questions for adjudication for the reasons that the products had deteriorated by reason of the lapse of time and because the same issues involved in the case were also involved in the injunction suit which had been filed by the Government against the claimant and which was then pending in the court of appeals (see notice of judgment on drugs and devices, No. 3663), and with the consent of the parties, the court ordered that the products be destroyed.

**3974. Misbranding of Elip tablets. U. S. v. 216 Boxes, etc. (F. D. C. No. 33230. Sample No. 37623-L.)**

**LABEL FILED:** May 8, 1952, Eastern District of New York.

**ALLEGED SHIPMENT:** On or about February 11, 1952, from Newark, N. J.

**PRODUCT:** 216 boxes, each containing 12 tablets, of *Elip tablets*, together with a number of empty boxes labeled, in part, "Elip Tablets" and a number of leaflets headed "Elip The Only Internal Pile Remedy," at Freeport, N. Y., in the possession of the Elip Distributing Corp.

Analysis showed that the product consisted of sulfur, rhubarb, and a tartrate.

**RESULTS OF INVESTIGATION:** The product was part of a bulk shipment of 120,000 tablets which had been made from Newark, N. J., to Baldwin, N. Y., from where a portion of this shipment was transported to Freeport, N. Y., and was packaged into boxes by the Elip Distributing Corp.

**NATURE OF CHARGE:** Misbranding, Section 502 (a), the statement "Elip Read Backward Spells Pile" appearing on the box label was false and misleading since the statement represented and suggested that the article was an adequate and effective treatment for piles, whereas such was not the case; Section 502 (e) (2), the label of the article failed to bear the common or usual name of each active ingredient since its label failed to declare the presence of rhubarb; and, Section 502 (f) (2), the labeling of the article failed to bear such adequate warnings against unsafe dosage and duration of administration, in such manner and form, as are necessary for the protection of users since the article was essentially a laxative and its labeling failed to warn that frequent or continued use, or use in accordance with the directions "Take 3 tablets with water

the first night then 2 tablets every night thereafter," may result in establishment of dependence upon laxatives to move the bowels.

Further misbranding, Section 502 (a), the following statements in the above-mentioned leaflets accompanying the article were false and misleading: "The only internal pile remedy \* \* \* what are piles? Hemorrhoids or piles are actually coils of dilated veins occurring inside or outside the rectal mucous membrane. The causes of piles are many and varied but the most common one is constipation. What does Elip do for piles? The astringent action of Elip gently shrinks the mucous membrane of the rectum which promptly relieves congestion and promotes healing of the affected parts. Elip contains no harmful ingredients, and as a result is highly recommended by physicians." The statements represented and suggested that the article was an adequate and effective treatment for piles and that it was harmless. The article was not an adequate and effective treatment for piles and was capable of causing dependence upon laxatives to move the bowels and, in case of appendicitis, of causing rupture of the appendix.

The article was misbranded in the above respects while held for sale after shipment in interstate commerce.

**DISPOSITION:** January 28, 1953. Default decree of condemnation and destruction.

**3975. Misbranding of Color-Therm devices. U. S. v. 1 Device (and 2 other seizure actions).** (F. D. C. Nos. 34399, 34400, 34439. Sample Nos. 16460-L to 16462-L, incl.)

**LIBELS FILED:** On or about December 12 and 19, 1952, Northern District of Oklahoma.

**ALLEGED SHIPMENT:** On or about August 2 and 13 and September 1, 1951, by Fred Gerkey, from Mission, Kans.

**PRODUCT:** 3 *Color-Therm devices* at Nowata, Vinita, and Delaware, Okla. The device consisted of a unit with six U-shaped tubes and a hand applicator with one straight and two U-shaped tubes for producing colored lights, similar to the so-called neon lights, with electrical connections to operate them.

**NATURE OF CHARGE:** Misbranding, Section 502 (f) (1), the labeling of the devices failed to bear adequate directions for use.

**DISPOSITION:** December 31, 1952. No claimant having appeared, judgments of condemnation were entered. The court ordered that the devices be dismantled and that any parts of use in the commercial field be sold.

## DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

### DRUGS FOR HUMAN USE\*

**3976. Misbranding of posterior pituitary injection. U. S. v. 15 Vials \* \* \*.** (F. D. C. No. 34224. Sample No. 14626-L.)

**LIBEL FILED:** November 28, 1952, Northern District of Texas.

**ALLEGED SHIPMENT:** On or about August 3, 1951, from Los Angeles, Calif.

**PRODUCT:** 15 30-cc. vials of *posterior pituitary injection* at Lubbock, Tex.

\*See also Nos. 3972, 3974.